DEPARTMENT OF STATE

Memorandum of Conversation

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DATE: June 4, 1947

SUBJECT:

Proposed Commercial Treaty with Italy

PARTICIPANTS:

Mr. Ippolito, Mr. Simonis, and Mr. Manzoni, Members of the Lombardo Mission
Dr. Voglielo, Commercial Counselor of the Italian Embassy
Dr. Zigliolí, Assistant Commercial Attache of the Italian Embassy
Mr. Woodbury Willoughby, Acting Chief - CP

COPIES TO:

Mr. Vernon Setser - CP and Mr. J. M. Kennedy - CP

Mr. Thorp	A-C
Mr. Pitts	ITP
Miss Brewster	ITP
Mr. Spiegel	FW
Mr. Bowling	EE
Mr. Hollis	Le/E

American Embassy, Rome

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The meeting was opened by Mr. Willoughby who outlined the general nature of the proposed treaty, pointed out that if concluded in the near future it will be the first entered into by the United States with a European country since the end of World War II, expressed the hope that negotiations could be carried as far forward as possible by the Lombardo Mission, and reserved the right on the part of this Government to make changes in the draft treaty at any time prior to its conclusion.

Mr. Simonis, Spokesman for the Mission, replied by stating that the Italian Government is in general agreement with the basic principles of the proposed treaty. He made it clear, however, that while the Mission could discuss the treaty in general terms, the fact that the various interested parts of the Italian Government have had insufficient time to study the draft and that it contained other than strictly economic provisions, precluded a detailed discussion of the draft by the Mission. He said, that an inter-ministerial committee has already been organized in

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Rome to work on the proposed treaty. He expressed a willingness to discuss Articles XIV to XVII, inclusive (the foreign trade and exchange provisions) of the draft treaty at the next meeting of the group. Such meeting, it was agreed, is to take place as soon as the Department is able (presumably during the week of June 3) to present to the Mission the proposed protocol relaxing during the post-war transitional period, the provisions in the draft treaty requiring non-discriminatory treatment on quotas and exchange control. Although voicing the Italian Government's complete agreement with the desirability of the early return of multilateral trade and of non-discrimination, as well as the removal of the many barriers to world trade, Mr. Simonis asserted the modification of the treaty provisions mentioned was vital in view of Italy's highly critical balance-of-payments position.

Mr. Simonis expressed the opinion that it might be possible to start active negotiation of the treaty in Rome within a month or two and he asked whether this Government would be able to send a commission to Rome for that purpose. It was pointed out that our Embassy would carry on the negotiations there but that it might be possible to send one or two officers from Washington to assist the Embassy. The spokesman for the Mission suggested that in the meantime the two Governments might exchange notes reiterating the commercial policy principles embodied in the notes exchanged in December 1945 by Ambassador Tarchiani and Secretary Byrnes, and committing the two Governments to the negotiation of the treaty at the earliest date possible. He was informed that such a proposal would be given consideration.

Mr. Simonis pointed out that the draft treaty overlooked Italy's great need for emigration at the present time and he asked whether it could make any provision for increased emigration of Italians to the United States. He added, however, that his Government was even more interested in the inclusion in the ITO Charter of a provision for the freer movement of peoples generally. It was pointed out to him that such a provision in the document would greatly increase the difficulty of obtaining Senate ratification. Mr. Simonis then asked whether the US immigration quotas for Italy, which have been unused by that country in recent years, could not be used up. It was suggested that Department's Conferees should inquire as to the regulations in

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effect on this matter and report the results at the next meeting.

Mr. Sinonis expressed gratitude for the considerable financial help extended by the United States to Italy, but said that certain sanitary and labeling regulations, customs procedures, as well as high tariffs, of the United States were seriously hindering Italian exports to this country and were therefore preventing Italy from becoming sufficiently self-supporting as to make further financial aid by the United States unnecessary. He proposes to have his Government furnish a list of the commodities on which it feels United States duties are unnecessarily high. He was informed that the Department has been studying current customs procedures, particularly customs currency conversion methods in the case of countries with multiple rates of exchange, which are hindering imports into the United States, and that it was hoped that legislation designed to correct such a situation would soon be enacted. The Commercial Counselor of the Italian Embassy was asked to submit a memorandum concerning the alleged refusal of the Food and Drug Administration to furnish to him in writing detailed information on the maximum tolerance of defective materials permitted in imported foods.

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DEPARTMENT OF STATE

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Memorandum of Conversation

DATE: June 19, 1947

SUBJECT: Proposed Commercial Treaty with Italy

PARTICIPANTS: Messrs. Simonis, Ippolito, De Cristina, and Vernucci, Members of the Lombardo Mission
Dr. Vogliolo, Commercial Counselor of the Italian Embassy
Mr. Woodbury Willoughby, Acting Chief - CP
Messrs. Vernon Setser, John M. Kennedy and Herman Walker - Cp

COPIES TO:

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Mr. Spiegel	FN
Mr. Dowling	SE
Mr. Hollis	Le/E
American Embassy, Rome	

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The meeting, the second to be held on this subject, opened with the announcement by Mr. Simonis that the Italian Government had authorized the Lombardo Mission to discuss the entire draft treaty in preliminary fashion. He, therefore, suggested taking up the treaty article by article, in order that he might inform the Department's representatives of his Government's views on the individual provisions. The comments of the Italian Government were as follows:

ARTICLE I The Italian Government suggests the redrafting of paragraph 2 of this article. It apparently feels that section (a) is inadequate for although the treaty might confer the right to practice professions, in actual practice the requirements of a state with respect to recognition of university degrees might effectively deny such a right. Mr. Simonis explained this by stating that although an Italian physician would be by the treaty granted the right to practice medicine in the United States, the refusal of the state in which he wishes to practice to recognize the degree of the Italian university might bar him from such practice. It was pointed out that it would

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be difficult to deal with this problem in a treaty of this type but that it might be handled in a separate agreement.

In the case of paragraph 4 of this article, Mr. Simonis asked whether, in the event an Italian came here to carry on trade between his country and the United States and obtained a six months' entry permit, he would be certain of always getting such permit renewed if he continued the trading activities, and whether, in the event such renewal were denied, the Italian Government would be informed of the reasons for such refusal. It was pointed out to him that this paragraph actually provided rather broad rights for "treaty merchants" and he was assured that under the treaty an Italian businessman coming here to carry on trade between this country and Italy would have the right to remain here as long as he was engaged in such trade.

ARTICLE II The Italian Government would like to see the "de facto reciprocity" provisions of paragraph 1 of Article VII added to paragraph 4 of this article. Apparently the Italian Government is afraid that certain state legislation might interfere with Italian corporations and under such conditions the Italian Government would like to have the right to treat in the same manner corporations of the same states operating in Italy.

Mr. Willoughby expressed the opinion that the difficulties under which foreign corporations might have to operate in certain states were probably not important but that the matter would be looked into further. Mr. Simonis stated that it would be very helpful if it could be demonstrated that the states would not interfere with Italian firms.

ARTICLE III The Italian Government finds section 2 of this article difficult of acceptance because Italy has a law which prevents foreigners from being managers of banks; moreover, a majority of the stockholders of Italian banks with a public interest must be Italian. It was pointed out to the Mission that banking is not included among the activities covered by this article, but that insurance was covered under the word "commercial".

ARTICLE IV The Italian Government has no objection to this article.

ARTICLE V

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ARTICLE V The Italian Government feels that paragraph 1 of this article is unnecessary in the case of "civilized governments", and that such provisions are usually included in treaties with so-called "inferior" countries. It was pointed out that the United States Government considers this provision to be a standard one and that there might be occasions when it would afford protection to Italians in this country.

Paragraph 2 of this article was not discussed because it is to be considered with the trade and foreign exchange provisions at tomorrow's meeting.

Mr. Simonis stated that paragraph 4 of this article is not clear. He raised two points, viz., the posting of bonds and the question whether aliens would have the right to attorneys when financially unable to employ them. He was informed that the treaty provisions on bonds would probably be satisfactory to both HCPs, since in the United States security for costs is required only of persons not resident within the jurisdiction of the courts, and since it seemed, from Mr. Simonis' statement, such security in Italy was required of both residents and non-residents. He was also informed that in criminal cases in the United States the court furnish attorneys to defendants unable to hire them.

Mr. Simonis suggested that section 5 of this article be redrafted to bring it more in line with Italian law and practices. It was pointed out that in Italy arbitration proceedings, in addition to being conducted in good faith and in conformity with the agreement for arbitration, must also meet certain formal Italian legal requirements. For example, in Italy the formal record of the arbitration proceedings must be deposited with the courts.

ARTICLE VI The Italian Government thinks this article is also unnecessary in the case of two "civilized" countries. It was pointed out that this also is a standard provision in US treaties and that its presence in the treaty makes ratification easier. Also, that it has advantages from the public relations standpoint.

ARTICLE VII

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ARTICLE VII The Italian Government prefers substituting MFN treatment for national treatment in the case of paragraph 1 of this article, such as was the case in the US-Italian Treaty of Friendship, Commerce and Navigation negotiated in 1871. It was pointed out that this matter raises a question involving certain state laws and that it has not been customary to call for such treatment in recent treaties but that the Italian Government's suggestion would be given consideration.

The Italian Government feels that the provisions relating to inheritance and succession should be dropped from the treaty because of the difficulty of reconciling the laws of the two countries, the law of Italy being based upon the principle of nationality and the law of the United States upon that of domicile.

ARTICLE VIII The Italian Government would like to negotiate a separate bilateral agreement with respect to industrial property and will prepare a memorandum on the subject. It was stated that an Italian export in this field is also expected momentarily. The Mission was asked whether there would be any objection to the inclusion of this article in the treaty if the separate agreement were also negotiated. Mr. Simonis indicated he did not think there would be any objection.

ARTICLE IX The Italian Government has no objection to this article.

ARTICLE X The Italian Government has no objection to this article.

ARTICLE XI The Italian Government would like to be sure that the first sentence of paragraph 2 of this article does not require unlimited freedom of the press and of interchange of information, since the Italian Constitution now being drafted will probably circumscribe these rights somewhat and since certain local Italian laws might do the same. It was pointed out that this sentence was merely declaratory and that the manner in which the principle should be applied was stated in succeeding sentences. In other words, the only

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absolute freedom required was in the "freedom of transmission of material to be used abroad" and that with respect to publication within each country national treatment was to be the rule. Paragraph 3 of this article is also considered unnecessary by the Italian Government, for the reason that rules regarding rights for burial of the dead should not be required in treaties between civilized countries.

ARTICLE XII The Italian Government has no objection to this article but feels that it might be expanded to include, among other things, the right of aliens to old age payments, etc.

ARTICLE XIII The Italian Government would prefer a separate agreement with respect to compulsory military or naval training or service.

ARTICLES XIV to XVIII inclusive, the trade and exchange provisions of the treaty, are to be discussed tomorrow morning.

ARTICLE XIX to XXII are to be discussed at a later date when shipping experts are present.

ARTICLE XXIV In the case of (b) of paragraph 3, the Italian Government objects to the clause "after consultation with the other High Contracting Party" since it does not feel that such consultation should be required. It was pointed out that it has been customary for the United States Government to include this requirement in reciprocal trade agreements.

In the case of (d) of paragraph 3 the Italian Government feels that it should be possible for it to grant preferential treatment to Trieste without being required to extend it generally under the MFN clause, and that San Marino should also be an exception. Mr Simonis pointed out that unless Italy is able to grant very low or no tariffs to the Free Territory, without being required to extend such treatment generally, Trieste will die economically. He was informed that the possibility of making these two areas exceptions to the MFN clause would be considered.

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In the case of paragraph 5 of this article Mr. Simonis objected to the term "indirectly owned or controlled" saying there were so many ways a firm could be indirectly controlled (he apparently was referring to foreign control of Italian firms) that he felt his Government would want some more specific statement.

ARTICLE XXV Italian Government has no objection to this article.

ARTICLE XXVI Italian Government has no objection to this article.

ARTICLE XXVII Italian Government finds this article to be generally satisfactory but dislikes reference to the Treaty of Peace. It would like the article to begin with some general declaration of friendship between the two countries. It was pointed out to him that this article is considered to be of a purely technical nature and that a declaration of friendship is contained in the preamble of the draft treaty.

Mr. Simonis pointed out that one thing the Italian Government feels is missing from the document is a declaration of mutual administrative assistance, i. e., that is a provision for cooperation in the transmission of legal documents, such as death certificates, marriage licenses, etc., recognition of letters rogatory and other matters of judicial assistance.

Mr. Simonis asked whether any investigation has been made with respect to the possible use by Italy of the immigration quotas not utilized by it during the war years and was informed that this would not be possible without specific federal legislation on the subject.

Mr. Simonis stated he thought that the Italian Government would find it possible to start negotiating on the treaty around the first of September.

Before the meeting ended the members of the Mission were informed that the Department was giving consideration to the exchange of notes on commercial policy suggested by Mr. Simonis at the first meeting and copies of a draft agreement were given to them for study.

It was agreed to meet again on Friday, June 20, at 10:00 A.M.

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DEPARTMENT OF STATE

Memorandum of Conversation

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DATE: June 20, 1947

SUBJECT:

Proposed Commercial Treaty with Italy

PARTICIPANTS: Messrs. Simonis, Ippolito, De Cristina, and Vernucci, Members of the Lombardo Mission
Dr. Voglolo, Commercial Counselor of the Italian Embassy
Mr. Woodbury Willoughby, Acting Chief - CP
Messrs. Vernon Setser, John M. Kennedy - CP
Alexander Rossmann - FN

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The meeting, the third to be held on this subject, started with the announcement by Mr. Simonis that the draft commercial policy agreement between the United States and Italy, copies of which were furnished the Italian Mission at yesterday's meeting, had met with Mr. Lombardo's approval except with respect to some of the language regarding Italian support of the ITO Charter. The draft as furnished to the Mission yesterday stated that Italy "is in full agreement on all important points of the proposed Charter for such an organization." Mr. Lombardo felt that this was too comprehensive a statement and suggested its modification. Following a discussion of the matter, Mr. Willoughby proposed changing the language to read that Italy "is in full agreement, at all important points, on the fundamental principles expressed in the proposed Charter for such an organization." Mr. Simonis stated he would advise the Department on Monday, June 23, whether the new language was agreeable to Mr. Lombardo. It was made clear to him, of course, that the proposed agreement had not been finally approved by the Department.

Mr. Simonis

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Mr. Simonis asked when Italy might expect to be invited to join the ITO and was told that while the United States supports Italy's admission to the organization, the matter is not one which can be decided by this country alone.

Mr. Simonis next referred to the navigation articles of the draft treaty, which yesterday he said would have to be discussed at a later date when shipping experts were present, by stating that before seeing a copy of the draft the appropriate Ministry of the Italian Government had listed some of the points it wished to see covered by any treaty that might be concluded between the two countries. These were: 1. it would like coastal trade to be exempt from M-F-N treatment; 2. it would like to be able to subsidize its merchant marine and shipbuilding industry; and 3. it would like to be able to reserve pilotage, towage, salvage, fishing rights, and lighthouse operation to Italian nationals. He added that Italy would also wish to reserve the right to establish special low rates for the carriage of emigrants on Italian vessels. It was pointed out to him that some of these requests were already taken care of in the draft treaty but that the matter would be looked into thoroughly.

Mr. Simonis referred to general exceptions Article (XXIV), part of which was discussed yesterday, by stating that the Italian Government felt the provisions of the draft treaty should not apply to advantages granted to facilitate frontier traffic, to those resulting from customs unions and to those granted by Italy to possible Italian Colonies, as well as to Trieste and San Marino. (Mr. Simonis' free translation of the Italian Government's requests along these lines is contained in the attached paper.) Mr. Willoughby indicated that the request for preferential treatment for any colonies which might be returned to Italy was in a different category from that for similar treatment for Trieste and San Marino and would require careful study by the Department.

The Italian Government's comments with respect to Articles XIV to XVIII, inclusive, which were not discussed yesterday, follow:

ARTICLE XIV The Italian Government would like to know why the United States Government feels it necessary in paragraph 4 of this article to require that when either High Contracting Party imposes any change in quantitative regulations "it shall as a general rule give public notice of the total quantity or value, etc." Mr. Simonis explained that such a procedure appeared undesirable as likely to lead to

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speculation in the commodity restricted. It was explained to him that the United States considered this necessary as a protection to importers of commodities already shipped. Mr. Simonis suggested, however, that a memorandum be prepared on the subject outlining this country's reasons for desiring such a procedure.

ARTICLE XV The Italian Government desires clarification of the meaning of paragraph 4 of this article. Its meaning was explained to the Mission and such meaning was illustrated by reference to certain administrative provisions of the United States which, according to the Italian Government, render it difficult for Italy to market certain of her commodities, such as tomato paste, in this country. With such a provision in the treaty the Italian Government could request that "sympathetic consideration" be given to any appeal it might wish to make to the effect that such provisions were unduly burdensome on her trade with the United States. It was agreed, however, that a memorandum on this subject would also be prepared for discussion at the treaty negotiations in Rome.

ARTICLE XVI The Italian Government apparently has no objection to this article.

ARTICLE XVII The Italian Government feels that under present conditions it cannot grant M-F-N treatment with respect to capital transfers between Italy and this country. It was pointed out to the Mission that it was the purpose of the suggested modification of section (e) of Article XXIV and of the proposed protocol to the treaty, copies of which were furnished to the Mission on June 13, to permit discrimination by Italy while she is experiencing balance of payments difficulties. Mr. Simonis was particularly interested in knowing whether, under the proposed treaty, it would be possible for Italy to make dividend payments in Swiss francs to a Swiss company if supplies of such francs were adequate, and refuse to make dividend payments in dollars to an American company, if supplies of dollars were inadequate, without protest by the American Government that the action was discriminatory. It was pointed out that under the

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articles of the Monetary Fund such discrimination was permitted, and since the provisions of the Fund would be incorporated in the treaty by reference such discriminatory action would be permissible under the monetary and other conditions specified in the articles of agreement of the Fund.

The Italian Government considers the suggested modification of the General Exceptions Article to be somewhat involved and it was decided that it might be advisable, in rewriting subparagraph (c), paragraph 1 of Article XIIV, to make separate provision for current and long-term capital transfers, although general agreement on the substance of this section of the subparagraph was reached.

The Italian Government dislikes paragraph 3 of the protocol and feels that clarification of the language is necessary. It is particularly concerned with the requirement that when any new quantitative restrictions are to be imposed "advance notice of not less than 30 days" should be given, and that "each ECP shall afford to the other ECP opportunity for consultation at any time" concerning such restrictions. It was pointed out to the Mission that the 30-day notice was felt necessary for the benefit of shippers whose merchandise was already en route and that "consultation" was not invariably necessary but that requests for such consultation by one ECP should be given sympathetic consideration by the other ECP.

One of the points which troubled the Mission is the requirement under the "nationalization" and "inheritance" provisions of the draft treaty that when foreign exchange is to be granted for transfers it is to be "upon the most favorable terms applicable to such currency at the time of taking of the property." It was the Italian contention that such a procedure is technically and legally impossible for Italy, the practice there being to fix the rate of exchange prevailing on the day the foreign exchange is available and not at the rate prevailing when the property is nationalized. It was pointed out to him that the

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method suggested in the draft treaty was more equitable and that American investors would feel there was more protection under the language in the draft treaty than under the Italian system.

The Mission raised several questions concerning our attitude towards bilateral agreements, the adoption by the Italians of criteria of priority of import, etc.

The Italian Government feels that Italian products in this country should enjoy more administrative protection than is the case at present and that this matter should be dealt with, if not under the treaty, under a separate agreement. Mr. Simonis pointed out that neither Italy nor the United States participated in the Madrid agreement of 1891 on trade marks. Since the Italian Government would like to see better protection for its products bearing well-known geographical names, such as, Chianti, the Italian Government would like to enter into separate agreements with this country on such subjects. The difficulties caused to Italian products by United States labeling regulations were also reviewed by the Mission, as were those due to customs formalities. It was pointed out to him that some of these problems got into the political field and were, therefore, particularly difficult to handle. The Mission was promised, however, that these matters would looked into.

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Furnished by Mr. Simonin of Lombardo Mission at third Meeting with Department Officials on Proposed Treaty of Friendship, Commerce and Navigation - June 30, 1947

The provisions of the present Treaty are not applicable:

1. to the facilitations which may be granted by one of the two contracting nations to neighboring countries to facilitate the small border trade;

2. to the advantages deriving from a Customs union of which one of the contracting countries is a member;

3. to the advantages which might be granted by the United States to the neighboring States, and to the advantages which might be granted by Italy to the colonies and to Italian possessions, as well as to the advantages which might derive from the special treatment which might be established between Italy and the neighboring territories or placed under her administration, or over which through international decision a prevailing interest might be acknowledged including the Free Territory of Trieste.

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